As a general rule, evidence of other crimes committed by the defendant to prove the particular offense for which he is being tried is inadmissible on the ground that the admission of such evidence would unduly influence the jury against him. *People* v. *Molineux* (1901) 168 N. Y. 264, 61 N. E. 286; 2 Columbia Law Rev. 39. However, evidence of a former offense is admissible to prove the specific crime when it tends to show motive, *Thompson* v. *United States* (C. C. A. 1906) 144 Fed. 14, or intent, *Mitchell* v. *State* (1904) 140 Ala. 118, 37 So. 76, or the identity of the accused, *People* v. *Jennings* (1911) 252 Ill. 534, 96 N. E. 1077, or a common scheme embracing the commission of a series of crimes, *Commonwealth* v. *Snell* (1905) 189 Mass. 12, 75 N. E. 75, or absence of mistake or accident. *State* v. *Hyde* (1911) 234 Mo. 200, 233, 136 S. W. 316. On the other hand, evidence that the defendant had recent possession of the property for the larceny of which he is being tried is always admissible. 1 Wigmore, Evidence, § 152. Moreover there is a division of authority as to the effect of such evidence, Wigmore, *op. cit.* § 2513, some jurisdictions holding that it raises a presumption in law of the guilt of the defendant, *State* v. *Court* (1910) 225 Mo. 609, 125 S. W. 451, and others holding that it is such evidence from which the jury might infer the guilt of the accused, if he cannot explain possession. *Thompson* v. *State* (1909) 58 Fla. 106, 50 So. 507. Moreover, evidence is admitted to show that the defendant had no money before the alleged larceny and an unexplained sum of money after the specific offense in question, *State* v. *Bruce* (1890) 106 N. C. 793, 11 S. E. 475; *State* v. *Thompson* (1893) 87 Iowa 670, 54 N. W. 1077; *People* v. *Kelly* (1901) 132 Cal. 430, 64 Pac. 563; *contra Williams* v. *United States* (1897) 168 U. S. 382, 18 Sup. Ct. 92, on the ground that such a sudden change of circumstances is a suspicious fact which the jury has a right to consider in connection with other evidence which points strongly to the defendant's guilt. See *Commonwealth* v. *Montgomery* (1846) 52 Mass. 534. The court in the principal case apparently admitted the evidence in question on this ground. But it would seem that the decision is a further encroachment on the general rule that evidence of other crimes is inadmissible. For if any inference of guilt can be drawn from the testimony admitted, it would seem to be that the defendant had gained possession of the unidentified collection of jewelry in the commission of other larcenies than the one charged. There would seem to be no such inference as is drawn from the sudden possession of money since money might well be the proceeds of a recent larceny. It is submitted that the evidence in the principal case should have been excluded.

NEGLIGENCE—RECOVERY BY INVITED GUEST IN AUTOMOBILE FOR PERSONAL INJURY.—The plaintiff, having been invited by the defendant to ride in her automobile, while a guest in the latter's home, was injured in an accident due to the negligence of the chauffeur. In a tort action for damages, *held,* in the absence of evidence of gross negligence on the part of the defendant, the plaintiff could not recover. *Massaletti* v. *Fitzroy* (Mass. 1917). 56 Banker & Tradesman 875.

The courts have by a number of decisions stated that the status of one invited to take an automobile ride, is that of an invitee for social purposes, towards whom the owner owes the duty of ordinary care. Some courts have declared that while the host is not responsible for acts of non-feasance, *Plummer* v. *Dill* (1892) 156 Mass. 426, 31 N. E. 128; but *cf. Davis* v. *Central Congregational Society* (1880) 129

Mass. 367, he is responsible for acts of ordinary mis-feasance; *Pigeon* v. *Lane* (1907) 80 Conn. 237, 67 Atl. 886; others that he is liable only for acts of gross negligence. *Cf. Southcote* v. *Stanley* (1856) 1 H. & N. 247. There is, however, general acquiescence in the view that the passenger may recover for an injury caused by reckless driving. *Beard* v. *Klusmeier* (1914) 158 Ky. 153, 164 S. W. 319; *Fitzjarrell* v. *Boyd* (1914) 123 Md. 497, 504, 91 Atl. 547; see *Mayberry* v. *Sivey* (1877) 18 Kan. 291. Since ultimately each case must rest on its own facts, these distinctions are more technical than real. But in the jurisdiction of the principal case, gross negligence is akin to intentional misconduct, differing not merely in degree, but also in kind from ordinary negligence. *Galbraith* v. *West End Street Ry.* (1896) 165 Mass. 572, 43 N. E. 501. Hence the decision seems to imply that the owner is liable only for intentional injury. The court relied principally on the case of *West* v. *Poor* (1907) 196 Mass. 183, 81 N. E. 960 where a trespassing child who had been permitted to ride on a milk wagon by the acquiescence of the milkman, was not allowed to recover in the absence of showing "gross negligence". Since in the instant case the plaintiff was expressly invited to ride, her position is not at all analogous to that of the child in *West* v. *Poor, supra,* and the court in relying on the earlier decision reached a result which is against the weight of authority and not to be commended.

PUBLIC OFFICERS—CLERKS OF COURT—LIMITS OF LIABILITY ON OFFICIAL BOND—PRIVATE FUNDS.—Defendant clerk, by order of court, received money tendered into court by plaintiff and deposited it in a bank which subsequently failed. In an action on his official bond, *held,* he was liable therefor, even though the funds were private and not public. *People* v. *McGrath* (Ill. 1917) 117 N. E. 74.

If money is tendered to the clerk without court order while suit is pending, it is not received by him in his official capacity, *Commercial etc. Co.* v. *Peck* (1897) 53 Neb. 204, 73 N. W. 452, and no action on his bond may be maintained; *People* v. *Cobb* (1897) 10 Colo. App. 478, 51 Pac. 523; but if paid in pursuance of a court order, he receives it officially and the action will lie. *United States* v. *Howard* (1902) 184 U. S. 676, 22 Sup. Ct. 543. The limits of liability on the bond are unsettled as in the case of every public officer under bond. Throop, Public Officers §§ 221-229; 9 Columbia Law Rev. 639. Following the weight of authority in the case of other public officials, some courts have held court clerks absolutely liable for all funds paid to them in their official capacity. *Northern Pac. Ry.* v. *Owens* (1902) 86 Minn. 188, 90 N. W. 371; *Smith* v. *Patton* (1902) 131 N. C. 396, 42 S. E. 849. On the other hand, there is a persistent common law view which regards their liability as solely that of a bailee, Story, Bailments § 620, and courts following this view have not permitted suits on the bond in cases like the principal case. *Wilson* v. *People* (1893) 19 Colo. 199, 34 Pac. 944; *cf. Aurentz* v. *Ponter* (1867) 56 Pa. 115. The confusion arises from the fact that court clerks handle both public and private moneys. Fees, costs and fines collected by them are public moneys which, because of considerations of policy, have been protected. 9 Columbia Law Rev. 639. The reasons, it is suggested, are similar to those for the rule, in some jurisdictions, that public funds are entitled to a preference in the event of insolvency of banks. *Matter of Carnegie Trust Co.* (1912) 206 N. Y. 390, 99 N. E. 1096; *contra, Phillips* v. *Gillis* (1916) 98 Kan. 383, 158 Pac 23. But money tendered into